

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff, No. 1:17cr80

vs.

SAMEER PAUL GADOLA,

Defendant.

Before:

THE HONORABLE JANET NEFF,
U.S. District Judge
Grand Rapids, Michigan
Monday, September 10, 2018
Sentencing Proceedings

APPEARANCES:

MR. ANDREW BIRGE, U.S. ATTORNEY

By: MS. ALEXIS SANFORD

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On behalf of the Plaintiff;

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On behalf of the Defendant.

September 10, 2018

PROCEEDINGS, 9:31 a.m.

THE CLERK: All rise, please. This court is now in session. Please be seated.

THE COURT: Good morning, everybody.

MR. LENNON: Good morning, Your Honor.

THE COURT: I apologize for the late start. It really was my responsibility and I got caught up in some things.

This is the date and time set for sentencing in case number 1:17cr80, the United States of America versus Sameer Paul Gadola.

Counsel, may I please have appearances and any introductions.

MS. SANFORD: Good morning, Your Honor. Alexis Sanford appearing for the United States. Present with me at counsel table is Assistant U.S. Attorney Dan Mekaru and FBI Special Agent Hank Impola.

THE COURT: Thank you.

MR. LENNON: Good morning, Your Honor. Brian Lennon, Warner Norcross & Judd.

MR. CRANMER: Your Honor, good morning. Tom Cranmer from the law firm of Miller Canfield Paddock and Stone on behalf of Mr. Gadola.

MR. LENNON: Seated between us, Your Honor.

THE COURT: Thank you. On March 30, 2018, Mr. Gadola

1 appeared before Magistrate Judge Ray Kent and entered a guilty
2 plea to all three counts of a superseding felony information.
3 The three counts to which the defendant pled guilty are
4 identical: Counts 1, 2 and 3 all charge possession of child
5 pornography, and those counts are contrary to 18 U.S.C.
6 2252A(a)(5)(B), and 2252A(b)(2). The maximum potential
7 penalties for those offenses are ten years imprisonment and a
8 \$250,000 fine.

9 The offense behavior can be fairly summarized as
10 follows: Using a Smart phone the defendant communicated with
11 three young boys ages 16, 14 and 13; in a series of text
12 messages he induced each of them to send images to him
13 depicting their genitals and erect penises over the Internet.
14 He admits in his plea agreement that these were lascivious
15 images.

16 The report and recommendation of the magistrate judge
17 was adopted on May 10, 2018. I do accept the written plea
18 agreement in this case. The charges pled to do reflect the
19 seriousness of Mr. Gadola's behavior. I'm not entirely
20 convinced that they reflect all of it or all of the seriousness
21 of it.

22 In any event, the magistrate judge has indicated an
23 objection to paragraph 16 of the plea agreement, and I
24 essentially agree with his objection, although -- and his
25 objection is set out at page 20 of the plea transcript. I

1 essentially agree with that objection to paragraph 16. And I
2 realize the government has a different view of it. But I'm not
3 going to order that it be stricken. I just want the record to
4 reflect that I too think that a defendant cannot waive the
5 government's duty not to bring vexatious, frivolous claims
6 against a defendant or to act in bad faith.

7 There is a presentence report prepared by United
8 States Probation Officer Bonnie Mosley who is also in the
9 courtroom this morning.

10 Ms. Sanford, does the government have any issues with
11 regard to the factual recitation in the report?

12 MS. SANFORD: We have no factual disputes with the
13 report, Your Honor.

14 THE COURT: Thank you. Mr. Lennon, how about on
15 behalf of the defendant? Strictly with regard to the facts.

16 MR. LENNON: No, Your Honor. With regard to most of
17 the offense conduct. We actually through all the factual basis
18 we do have a standing objection to any inclusion of the J.
19 family, specifically, in paragraphs 54 and 175 in the report.
20 Those have to go with some factual statements and an assertion
21 of restitution owed.

22 But other than the inclusion of information regarding
23 the J. family, there are no objections to the factual
24 recitation.

25 THE COURT: Thank you. Mr. Gadola, just a couple of

1 questions for you, sir. Have you read the presentence report?

2 THE DEFENDANT: Yes, I have, Your Honor.

3 THE COURT: And have you discussed it carefully and
4 thoroughly with your attorneys, Mr. Lennon and Mr. Cranmer?

5 THE DEFENDANT: Yes, I have, Your Honor.

6 THE COURT: As you sit here in the courtroom this
7 morning, is there anything about the report that you either do
8 not understand or about which you have any question at all?

9 THE DEFENDANT: No, Your Honor, not that I can think
10 of.

11 THE COURT: Are you sure?

12 MR. LENNON: May we have a moment, Your Honor?

13 THE COURT: Certainly.

14 (Discussion off record in court)

15 THE DEFENDANT: I can't, I can't think of any
16 questions I have at this moment.

17 THE COURT: Okay. Fair enough. Now, your counsel
18 have been retained to represent you in this case. Have you
19 been satisfied with the work that they have done on your
20 behalf?

21 THE DEFENDANT: Yes, Your Honor, I have.

22 THE COURT: Okay. The presentence report includes a
23 calculation of the guidelines and the advisory guidelines
24 ranges as follows: I will point out that the calculations for
25 each of the three counts is identical, and as pointed out in or

1 set out in paragraph 12A of the plea agreement, the application
2 of sentencing guidelines 2.2 -- 2G2.1 is stipulated to apply
3 here. And that affects the calculation of the offense level.

4 So the offense level is calculated at 36, Criminal
5 History Category is calculated at 1 based on zero criminal
6 history points, and those two calculations place this case in
7 Zone D of the grid where the incarceration range is 188 to
8 235 months, although, as noted earlier, the maximum potential
9 custody sentence for these offenses is 120 months, but they can
10 be stacked to achieve an incarceration within the guidelines
11 range.

12 The supervised release range is five years to life,
13 the fine range is 40,000 to \$250,000, restitution as pointed
14 out by Mr. Lennon and also discussed in the sentencing memos
15 and the presentence report, that is to be decided. We are
16 going to talk about that a little bit later. And there is a
17 mandatory special assessment of \$100 per charge for a total of
18 \$300.

19 Now, the restitution issue, Mr. Lennon, has been laid
20 out as a scoring issue but it really isn't. But I think we
21 might as well discuss it at this juncture. You can put your
22 argument on the record. I'm sure Ms. Sanford has something to
23 offer as well, and I'll make that determination at this point
24 or at least I hope I can.

25 MR. LENNON: Thank you, Your Honor. From the victim

1 impact statements that were filed under seal I would point out,
2 Your Honor, that there was one from a counselor of the young
3 man identified as J.L. out of Texas. No other submissions by
4 any of the individuals, juveniles who were identified as
5 exchanging genital photographs with Mr. Gadola. And we would,
6 Your Honor, concede that any other children who had exchanged
7 genital photographs with Mr. Gadola would indeed be considered
8 victims under this case. The bulk of the documents provided to
9 the Court under the seal are involving the J. family. And,
10 Your Honor, it's our position, it's been our position, that
11 they are not victims of this crime. I will --

12 THE COURT: Well, strictly speaking they are not
13 victims of the crime of conviction, but they -- well, I'll let
14 Ms. Sanford argue that. The issue is a little broader than
15 that, I think.

16 MR. LENNON: Well, Your Honor, and I'll -- I do want
17 to address kind of the factual basis behind that because this
18 Court, as the Court well recalls, had two days of testimony
19 that culminated, if you will, in what is apparently the
20 purported admissions by Mr. Gadola. Of course not on tape,
21 after nine hours of questioning, that led to even Special Agent
22 Impola contacting the [REDACTED], sorry, I apologize, Your Honor,
23 the J. family. I ask that be stricken from the record, Your
24 Honor, and I'll do my best to not do that again.

25 But this, this alleged incident which the government

1 is now seeking restitution for is not, would not be considered
2 part of the offense conduct and was not included in the Court's
3 recitation of the offense conduct.

4 And what we frankly believe is the government is
5 trying to get in through the back door which they couldn't
6 through the front door. The government has argued this would
7 be under the mandatory restitution statute. That's not clear.
8 And they also argue that the plea agreement would encompass
9 this conduct. Which we argue it does not.

10 THE COURT: Well, let's make sure we are all on the
11 same page there. Because we are talking about paragraph 5, I
12 believe, of the plea agreement.

13 MR. LENNON: Yes, Your Honor.

14 THE COURT: Which says, and I quote, "Mandatory
15 restitution" MRA, the statute you're talking about, "the
16 defendant understands that he will be required to pay full
17 restitution as required by law, see USC Sections 2259, 3663,
18 3663A. The defendant also agrees to make full restitution to
19 all of the victims of his sexual exploitation of children
20 including but not limited to the children depicted in the
21 images charged in the superseding felony information, as well
22 as the children who appear on any other child pornographic
23 images produced, received, possessed or accessed by the
24 defendant. The defendant agrees that the restitution order is
25 not restricted to the losses related to the counts to which he

1 is pleading guilty. The parties currently do not know the
2 applicable amount of restitution and agree that the amount will
3 be determined by the Court at sentencing."

4 MR. LENNON: Yes, Your Honor. And so our point is
5 this plea agreement which was provided to us and was
6 nonnegotiable, in fact on March 27, 2018, when we asked to
7 engage in some tweaking of language we were told that it would
8 remain as is. On March 29th, 2018, the government was aware of
9 the J. family for over a year and did not explicitly put this
10 in there. So I would argue there was no meeting of the minds
11 with respect to the J. family. If they expected the J. family
12 to come under this, they had 14 months that that could have
13 been discussed.

14 Our interpretation of this, which we believe is
15 consistent with the mandatory restitution statute was we knew
16 they had lots of other images, 20, 30 other images depicting
17 genitalia of young men. If they had identified any of those
18 others, and indeed they apparently have, those people would be
19 victims; those people could be entitled to restitution. But
20 not the J. family. And we believe any, any question about the
21 drafting of this on a nonnegotiable plea agreement has to go
22 against the government. If they intended the J. family to be
23 part of this restitution, they should have put it in there.

24 THE COURT: Well, I'm sure Ms. Sanford has a contrary
25 argument to make. So let's hear what that is.

1 MR. LENNON: Thank you, Your Honor.

2 MS. SANFORD: Your Honor, my drafting of the paragraph
3 5 that the Court just read into the record was intended to cast
4 a wide net so that it wasn't just the three boys and the counts
5 of conviction that would be entitled to seek restitution
6 claims. As laid out in our sentencing memorandum, we do think
7 that the J. family are victims of Gadola's sexual exploitation
8 of children. And I do believe that there's a sufficient
9 factual basis for that laid out in the presentence report. We
10 provided the probation officer who prepared the report, Officer
11 Mosley, and the defense with copies of the reports and the
12 recordings from the Child Advocacy Centers where these children
13 were interviewed. I think given the disclosures that they made
14 at the time of the interviews, as well as Gadola's admissions
15 about his conduct toward these children, it is appropriate to
16 include them in the restitution calculus.

17 I would also note that if the Court wanted to hear
18 testimony, although I don't believe that it's necessary, the
19 mother of the children is present today to address that the
20 family had no advance knowledge of the allegations before their
21 interviews. However, she also outlined that in her victim
22 impact statement.

23 So I do think there is a sufficient basis here on the
24 record for the Court to find that these children were victims
25 of his exploitation, that this family has suffered economic

1 damages because of that exploitation, and that they are
2 entitled to restitution.

3 THE COURT: Thank you, Ms. Sanford. Well, let's first
4 of all dispense with the idea that the fact that this plea
5 agreement was submitted to the defendants without the
6 opportunity to negotiate. Let me first say that the defendant
7 and his counsel didn't have to accept it and sign it.
8 Secondly, this plea agreement provided defendant and does
9 provide the defendant with tremendous benefit. The counts
10 which were dismissed here for which the factual recitation in
11 the plea agreement and throughout this file suggest offenses
12 that would have carried potentially a mandatory minimum
13 15 years imprisonment. So I have no real empathy with
14 counsel's concern about this not being a negotiated settlement.
15 Nor do I have any real, place any real credibility in the
16 argument that this is not how they interpret the paragraph 5;
17 which Ms. Sanford I think did cast a very broad net. It is not
18 limited to in any way, as far as I can tell based on the clear
19 language of the paragraph, it's not limited to victims who were
20 known at the time counsel and the defendant entered into the
21 plea agreement, and it covers in my view all of the J. family
22 victims when it says that, "The restitution order is not
23 restricted to the losses related to the counts to which he is
24 pleading guilty."

25 So the objection to restitution on behalf of the J.

1 family is respectfully denied.

2 The only question I have for the government really has
3 to do with the calculation. And I'm not certain that all of
4 the items included in the claim for restitution on their behalf
5 are proper.

6 So I would like to hear Ms. Sanford's view on that,
7 please.

8 MS. SANFORD: Respectfully, Your Honor, is there
9 something in particular that you would like me to address?

10 THE COURT: Well, I'm just looking. I'm not putting
11 my hands on it right off the bat. There was a, if I recall
12 correctly, there was an attorney fee issue. I'm not entirely
13 convinced that all of the counseling fees are recoverable. I
14 was trying to find that. I know that there is a --

15 Ms. Mosley, do you know where that is set out that
16 there's a chart I thought. 105. Is that in the impact
17 statements?

18 THE CLERK: Yes.

19 THE COURT: Okay. Thank you. The wage loss on behalf
20 of the parents. There were apparently some insurance benefits
21 were paid, there were -- the J. family received state crime
22 victim compensation benefits. And so, you know, I'm just not
23 certain of the inclusion of various items. And I would like
24 for you to talk to me about attorney fees as well. Where you
25 find that in the statute and in the guidelines. If at all.

1 MS. SANFORD: Let me start, first of all, the Court
2 mentioned lost wages. I don't believe that there is a request
3 for any wages. I'm looking at page ID 771 which is the
4 financial impact statement and verification of financial loss.
5 Question 7 asks the family, "Were you unable to work or did you
6 miss work as a result of this crime?" And they indicate that
7 there was no wage loss although there was missed work due to
8 attending driving to numerous medical and counseling
9 appointments for family members, meetings with the FBI,
10 attending court, et cetera. So I don't believe that there is
11 any claim for lost wages. I think they are just indicating
12 that there was missed work because of this case but I don't see
13 anywhere where they delineate an amount of money that they are
14 seeking for wages.

15 Regarding the funds that they received from the Crime
16 Victims Fund from the State of Michigan, if a restitution order
17 is entered in this matter, the J. family will be responsible
18 for repaying the Michigan Crime Victims Fund the money that
19 they have already been forwarded to offset their bills.

20 THE COURT: What about the amounts they might have
21 recovered from their insurance?

22 MS. SANFORD: I don't believe that they are seeking
23 the amounts they didn't recover from their insurance. Looking
24 at page ID 773, they indicate, "That to prepare this statement,
25 we logged into their insurance website and reviewed all archive

1 copies of their explanation of benefits forms. They show the
2 amounts that we are responsible for which are not covered by
3 insurance. Even after the annual deductible is exhausted,
4 there is still a copayment, then the deductible resets back to
5 zero on January 1." So I believe the request here is for their
6 out of pocket insurance. In fact, you'll see that for one of
7 the children, J.G., they are asking for the full amount because
8 in that particular instance their insurance provider doesn't
9 cover her treatment.

10 And I'm happy to call a witness to answer some of
11 these questions if the Court would find that helpful.

12 THE COURT: I think I would.

13 MS. SANFORD: Yes. One moment, please, Your Honor.
14 Your Honor, I'm going to call at this time [REDACTED] and I
15 would request that his name actually be redacted from the
16 transcript so the identity of the family isn't publicized.

17 THE COURT: Very well.

18 GOVERNMENT WITNESS, WAS DULY SWORN

19 THE CLERK: Thank you. Please be seated.

20 DIRECT EXAMINATION

21 BY MS. SANFORD:

22 Q You are the father of the children that we have been
23 discussing?

24 A Yes.

25 Q And you prepared this restitution request?

1 A I did.

2 Q All right. Let's start by talking about what is and is not
3 covered by your insurance. Did you submit any claims for any
4 payments that your insurance made to any providers?

5 A No.

6 Q So the amounts that you've indicated on these forms that
7 you completed are your out of pocket expenses?

8 A Yes.

9 Q After insurance has covered whatever their portion is?

10 A Correct.

11 Q Also, was I correct, are you going to be required to
12 reimburse the Crime Victims Rights Fund for the State of
13 Michigan?

14 A That is our understanding of how it works, yes.

15 Q Okay. And then you indicated that there was some out of
16 pocket expense to consult with your family attorney.

17 A We did. We asked for advice.

18 Q Advice regarding just generally --

19 A The court process and what to expect and kind of how this
20 works.

21 Q Okay. And was that a one-time consultation?

22 A Yes, it was.

23 Q All right. That was just sort of what to expect when
24 dealing with a criminal process?

25 A Correct.

1 Q That was \$405 amount that you paid?

2 A Yes.

3 Q This was a family attorney that you had retained for other
4 matters at a different point?

5 A It's our family attorney for other things.

6 Q You have also submitted requests for repayment for
7 prescription medication costs?

8 A Correct.

9 Q Is that for out of pocket expenses only?

10 A Yes.

11 Q And then you calculate that your children will remain in
12 counseling for sometime.

13 A Yes.

14 Q And how much counseling will cost until they turn 18 for
15 you out of pocket, is that correct?

16 A That is correct.

17 Q And so you listed that as future calculation of counseling
18 expenses.

19 A Yes.

20 Q That's for each of your children until they turn 18 and
21 then for you and your wife?

22 A Yes.

23 Q Until what point?

24 A Until the children are 18.

25 MS. SANFORD: I have no further questions.

1 THE COURT: Mr. Lennon.

2 MR. LENNON: Thank you.

3 CROSS-EXAMINATION

4 BY MR. LENNON:

5 Q Good morning, sir.

6 A Good morning.

7 Q Did you submit to the victim witness unit here any
8 documents to support these calculations?

9 A Yes.

10 Q So you did give them both receipts and diagnosis, is that
11 correct? What did you give them?

12 A Bills and things that we had at home. I know I went to the
13 pharmacy to get the prescription records.

14 Q And so all of that that you had in your possession was
15 provided to the government?

16 A We provided -- I think I provided the log-in information or
17 I provided the Aetna stuff. I had to go into the computer and
18 look at all those benefit statements.

19 Q And all of those figures support these numbers in here, at
20 least of current and present costs?

21 A Right.

22 Q Let's talk about the future costs here, future
23 calculations. Do you have plans of care by the physicians who
24 have seen B. and S. and C. and you and your wife saying that
25 they will need counseling until they're 18 years of age?

1 A No.

2 Q So these future costs of 52,704, that's just your
3 calculation of current expenses if you need, everyone needs
4 counseling for the next almost decade, is that correct?

5 A Yes.

6 Q Now, I saw someone -- and first of all, I know you're
7 friends with the Gadola family; they feel very badly that you
8 are in this position here today. But let me tell you. Let me
9 ask you. As of the date that Mr. Impola came to your home, you
10 had no concerns about Sameer Gadola, did you?

11 A No, actually we did have some concern before that because
12 of social media.

13 Q Did you talk to the Gadolas about that?

14 A No, we did not.

15 Q And in fact you even went to their home and spent holidays
16 with them, correct?

17 THE COURT: Are we talking about restitution here,
18 Mr. Lennon?

19 MR. LENNON: We are, Your Honor. But I think the
20 Court wants me to focus on the numbers only. And I will do
21 that. The future costs, I'm assuming that you've also included
22 for you and your wife, is that correct?

23 THE WITNESS: Correct.

24 BY MR. LENNON:

25 Q And you said that you have no doctor's notes or diagnosis

1 plans of care saying you're going to need extended care in this
2 matter, is that correct?

3 A We are still under treatment with the providers.

4 Q Understand that. But I'm talking about the length of time
5 in which you need to go into, have these services for you and
6 your children. You have nothing to establish that you will
7 need these services as long as it's provided for the dates
8 estimated in here, is that correct?

9 A Yes.

10 MR. LENNON: Thank you. May I have a moment, Your
11 Honor? Thank you, Your Honor.

12 THE COURT: Your children are still in counseling.

13 THE WITNESS: Yes.

14 THE COURT: On a regular basis?

15 THE WITNESS: Well, due to the expense they are not
16 going as frequently as they were, but we would like to be able
17 to resume that.

18 THE COURT: Okay. Anything further, Ms. Sanford?

19 MS. SANFORD: Not for this witness, thank you.

20 THE COURT: You may step down. Thank you for your
21 testimony, sir.

22 I have some real reservations then about two areas:
23 First of all, the attorney fees which I don't think, at least I
24 haven't seen any authority for that. And for the counseling
25 fees for the parents. I think that the counseling fees for the

1 children past, present and future are certainly proper, but I
2 would like to see a recalculated bottom line that does not
3 include those two items.

4 MS. SANFORD: If I may, Your Honor.

5 THE COURT: I'm sorry?

6 MS. SANFORD: My request would be, we can delay
7 restitution findings for 90 days under 18 U.S.C.
8 Section 3664(d)(5).

9 THE COURT: Right.

10 MS. SANFORD: I would like the opportunity to submit
11 the recalculated numbers the Court has requested. And if the
12 parents can obtain something in support of their claim from
13 their doctors, I would also like the opportunity to submit that
14 to the Court for its consideration.

15 THE COURT: I don't -- don't get me wrong. I do not
16 -- I do not contest their need. What I do contest is their
17 entitlement. And what I would really like to see from the
18 government, and of course the defense will have the opportunity
19 to respond, but what I would really like to see is some
20 authority for extending restitution beyond the actual victims
21 of the crime for the behavior. So that's what I'm really
22 looking for. I don't, I don't -- I mean if they -- obviously
23 if there are some justifications, medical justifications for
24 their need, that's fine. That should be included also. But my
25 real concern is whether the law permits that kind of

1 restitution. Okay?

2 MS. SANFORD: Yes. May I submit something to the
3 Court?

4 THE COURT: Yes.

5 MS. SANFORD: 30 days?

6 THE COURT: That's fine. And Mr. Lennon, the defense
7 will have 28 days to respond.

8 MR. LENNON: Thank you. And, Your Honor, with that, I
9 don't believe we have any of the supporting documentation for
10 any of the numbers or any of the diagnoses. But I will
11 certainly work with, if we missed them we will work with
12 Ms. Sanford to be able to review those and obviously keep that
13 confidential. But we would like that opportunity to respond.

14 THE COURT: Thank you. Okay. So that now we are past
15 the objections, which, as I said, did not really affect in any
16 way the scoring, my calculation of the scoring is the same as
17 the probation officer's: Offense level 36, Criminal History
18 Category I, an advisory guidelines range of 188 to 235 months,
19 a range for supervised release of five years to life, a fine
20 range of 40,000 to \$250,000, and a \$300 mandatory special
21 assessment.

22 Does the government agree with the accuracy of those
23 calculations, Ms. Sanford?

24 MS. SANFORD: I do, Your Honor. I would also just
25 remind the Court that there is the additional special

1 assessment.

2 THE COURT: Thank you. I forgot that. Yes. The
3 \$5,000 per count Justice for Victims of Trafficking Act of 2015
4 which is also a special assessment. And that amounts to a
5 total of \$15,000 in addition to the \$300 special assessment.
6 Thank you for reminding me. That's the second reminder I have
7 had this morning. Goes to show you it's Monday morning.

8 Mr. Lennon, are you in agreement with the accuracy of
9 the calculations?

10 MR. LENNON: Yes, Your Honor.

11 THE COURT: Thank you. Mr. Lennon, are you ready for
12 your allocution?

13 MR. LENNON: I am, Your Honor. We would like to start
14 with the Court's indulgence with respect to calling two experts
15 to address a number of areas. And this goes to our motion for
16 a variance and for the Court's ability to fashion a sentence
17 that is sufficient but not greater than necessary to achieve
18 the purposes of sentencing.

19 The first would be Ron Grooters who, among other
20 things, has done the ABLE assessment which the Court has
21 ordered as part of its supervised release conditions, as well
22 as the Look test. A copy of that report was provided under
23 seal as Exhibit H to our sentencing memorandum. He will, can
24 opine and give the Court some indication of his evaluation and
25 opinion of risk for Mr. Gadola, the likelihood to reoffend, and

1 the extent if any of any sexual deviance.

2 The second witness, Your Honor, would be Randy Flood
3 who is, works with men like Mr. Gadola in various out patient
4 programs. Can also explain the YSOTP program that is available
5 in Kent County, and would be available at a cost to Mr. Gadola
6 as either, as in this case, a condition of supervised release,
7 and what we would argue would be a reason why the Court should
8 depart significantly from the guidelines, increase supervised
9 release, and allow Mr. Gadola to participate in this program or
10 any other programs the Court would deem acceptable. We would
11 like the opportunity to call those two witnesses prior to our
12 allocution.

13 THE COURT: Does the government have any comment on
14 that, Ms. Sanford?

15 MS. SANFORD: Your Honor, regarding Mr. Grooters, the
16 Court has his report. I'm not certain what additional
17 information would be provided that would be helpful to the
18 Court regarding the assessment that he performed.

19 I have no information about the other proposed
20 witness. I'm skeptical of the helpfulness of information about
21 a county court program to this Court's assessment of a federal
22 sentence for Mr. Gadola. But I would leave that to Your
23 Honor's discretion.

24 THE COURT: Well, I share your skepticism with regard
25 to the Kent County program, Ms. Sanford. I did read all of the

1 submission with regard to that, and I don't -- I'm not really
2 sure that it is something that would be helpful to me in
3 determining a sentence which is sufficient but not greater than
4 necessary. And I say that partly because the, the submission
5 on that, I don't know which attachment that was to the defense
6 sentencing memo, but the very first paragraph of the program,
7 the Youthful Sex Offender Treatment Program which is available
8 in Kent County says that, "Research has established that early
9 intervention with sex specific treatment can significantly
10 reduce the risk of reoffending." I point out that Mr. Gadola
11 has had early intervention on any number of matters that he
12 struggles with, and it certainly didn't seem to affect this
13 process.

14 But in addition to that, I agree with Ms. Sanford, I
15 really do not see how it is going to be of any particular
16 benefit to me in reaching a sentencing decision. Again, as I
17 said, I read the information that came with the brief and I
18 didn't find it particularly appropriate.

19 And then with regard to Mr. Grooters, I would say
20 this. I found his report to lack credibility in a significant
21 number of particulars where, for instance, he concludes in two
22 places that Mr. Gadola is a typical adult heterosexual male, a
23 relatively well adjusted adult heterosexual male. Those two
24 conclusions run pretty contra to two things: They run contra
25 to the conclusions made by the Bureau of Prisons assessment of

1 Mr. Gadola, but even more importantly, they run contrary to the
2 defense in this case which has argued that Mr. Gadola, if I
3 understand their argument correctly, is not a typical adult
4 heterosexual male in almost any instance. Nor is he a
5 relatively well adjusted adult heterosexual male. The argument
6 has been that he has significant deficits, emotional,
7 cognitive, behavioral, that he has some confusion about his
8 sexuality, and finally, and those are only two of a number of
9 real questions I have about this report, but finally, he
10 concludes that there's no indication that Mr. Gadola has
11 progressed to any hands on offensive behavior towards children,
12 which we know is not true.

13 He had an encounter with his cousin who was younger
14 than he which did involve hands on offensive behavior. And we
15 have the victim impact statements from the J. family which also
16 strongly support hands on. So we know that there was I think
17 pretty clearly a lack of candor, if nothing more, when
18 Mr. Gadola was analyzed by Mr. Grooters.

19 He told Mr. Grooters he was not accused and had never
20 sexually abused a child. He was accused of that and through
21 the good efforts of his counsel has avoided prosecution on
22 those more serious crimes.

23 So, you know, you can put Mr. Grooters on. I really
24 do not think it's going to help me at all, Mr. Lennon.

25 MR. LENNON: Your Honor, I understand the Court's

1 ruling. And I just with the Court's indulgence would like to
2 just make a brief offer of proof with respect to that.

3 I think Mr. Grooters would explain that when he was
4 referring to kind of normal sexual, a normal adult male, he is
5 talking about kind of the sexual interest and not all of the --
6 he did not do the evaluations of Dr. Jeff.

7 THE COURT: None of that is believable either,
8 Mr. Lennon, because all you have to do is read the transcripts
9 of Mr. Gadola's texting with these young boys that he was
10 enticing.

11 MR. LENNON: Yes, Your Honor. And I think, again,
12 with respect to an offer of proof, both Mr. Grooters and
13 Mr. Flood would be able to talk about the way the Internet of
14 things has essentially allowed for a new group of offenders.

15 Finally, Your Honor, the last point is as the Court
16 knows, and we contest the admissions that were, that are
17 attributed to Mr. Gadola with respect to when they were made,
18 they're the only ones that aren't recorded, and this really led
19 to the FBI contacting the [REDACTED] and what not.

20 But we are not -- I'm not here to reargue whether they
21 are victims. The Court knows we are objecting to that. The
22 Court was very clear. We would simply ask the Court to
23 consider all of the evaluations by Dr. Kieliszewski,
24 Dr. van der Walt of the BOP, and Mr. Grooters, and I will
25 certainly proffer with respect to Mr. Flood's assessment and

1 what he could possibly do in the course of my allocution.

2 THE COURT: Well, I'm glad you brought up the issue
3 of -- see what phrase you used. "The way the Internet of
4 things allowing for a new group of offenders." Because I did
5 spend sometime reading the editorial you provided as well
6 called, "Sexting: Prevalence, Age, Sex and Outcomes." Which
7 is also, for purposes of the defense in this case, a double
8 edged sword at the very least. And one of the points made in
9 that editorial which appears in the Journal of the American
10 Medical Association Pediatrics, published in February of 2018,
11 is that there isn't even a uniform definition of this idea of
12 sexting. I mean it's an area that has not had a great deal of
13 research to it, and I don't, I don't believe that it provides
14 any real comfort to the defense in this case.

15 MR. LENNON: Your Honor, again, and I understand.
16 It's hard as a father to understand why young people would
17 engage in this behavior. That article was provided to the
18 Court because it is an emerging area. There are lots of
19 studies, in this case over a hundred thousand participants in
20 these 39 studies. And --

21 THE COURT: Without any real hard and fast
22 conclusions, Mr. Lennon.

23 MR. LENNON: Well, but I think it takes, one part is
24 it takes -- that is true. But other than the prevalence and it
25 appears to be becoming even more prevalent. And the point

1 being that, yes, there is an element of the sentencing factors
2 that require deterring other people, and deterring Mr. Gadola,
3 but at the end of the day, counseling, more maturation through
4 these programs like the YSOTP program, which, by the way, Your
5 Honor, also includes individuals accused of contact offenses.
6 In state court they are allowed to participate in this program,
7 and the findings have been these long Draconian sentences
8 aren't the ticket to both improve Mr. Gadola's chances to
9 remain law abiding and also to protect the community. Because
10 the programs have shown great success in reducing the
11 likelihood to reoffend. But in sexting it takes apparently a
12 different form. Sometimes it's just messages. Arguably both
13 messages and photographs were submitted here. And, Your Honor,
14 we are not walking away from this language. This was Sameer's
15 language. But with the Internet of things people take on
16 different personas. People are able to explore in a relatively
17 safe way, now, again, this would be if we are talking
18 consenting adults in communication, this is clearly a violation
19 of law because of the age of these young men, and we understand
20 that they are victims and we are not backing away --

21 THE COURT: I'm not even sure I would call them young
22 men. They were boys.

23 MR. LENNON: Yes, Your Honor. 13 to 16. And we
24 understand the impact and we also understand that while they
25 may have been, they may not have wanted to submit victim impact

1 statements in this case because, you know, of the embarrassment
2 of being engaged in this.

3 But let me get back to my client because that's who I
4 know, that's who I have spent this time with.

5 He has always been from the very beginning very
6 remorseful and very sympathetic to the families, the children,
7 and the families for whom were dragged into this because of his
8 conduct. You saw that in the letter. You saw that in his
9 apology note that he wrote the day, at the end of his nine-hour
10 interrogation. And you saw it in the letters of the people who
11 he has spoken with. Hopefully, in your, the letter to you, you
12 also saw his deep remorse. And I'll tell the Court, Your
13 Honor, I'll highlight the Court -- I know the Court is going to
14 ask him whether he wants to speak today -- he has been
15 practicing reading his letter in the mirror for several weeks
16 now. And in fact last night practiced in front of his
17 kindergarten teacher and another family friend who stopped by
18 to provide support. He just can't do it emotionally. He can't
19 get through it. But he has at all times shown remorse.

20 And again what I think Randy Flood would testify to is
21 they have young men like Sameer, young men engaged not only in
22 this conduct but also contact offenses who they have shown are
23 less likely to reoffend and more likely to mature in their
24 programs as opposed to long jail sentences.

25 I mean I know this is not state court, Your Honor.

1 Clearly. Just as if we were here arguing on a drug for a drug
2 defendant. We are not in state court. But in state court, a
3 young man like Sameer would not only be entitled in Kent County
4 to access to the YSOTP program but also to the Holmes Youthful
5 Trainee program which would not -- he wouldn't even be required
6 to register as a sex offender.

7 THE COURT: Highly doubtful that any circuit judge in
8 Kent County would afford him a Holmes Youthful Trainee
9 designation in a case like this where there has been acting
10 out, Mr. Lennon.

11 MR. LENNON: Well, Your Honor, I would beg to differ
12 only because I have had cases involving sexual intercourse with
13 minors where they have received Holmes Youthful Trainee in Kent
14 County. And that's because they have now -- a lot has happened
15 with the science of this, and that the long prison terms aren't
16 as helpful as the programs.

17 I can -- I have at least one defendant on the top of
18 my head I can tell right now, and I think Mr. Flood would
19 testify that that is, you know, we can't predict what judge we
20 have and what the judge would do, but Holmes Youthful Trainee
21 has been used for young adults Sameer's age for much more
22 severe contact offenses than what has even been alleged here.

23 THE COURT: Well, I'm not going to argue apples and
24 oranges with you with regard to whether those cases are
25 distinguishable from this one on its facts. I can think of

1 circumstances where a minor, 16 or 17 years old engages in this
2 kind of behavior and can be seen to be believed to be older
3 than that and so forth. But this is a case that is not in my
4 view cognizable under Holmes Youthful Trainee. Not where you
5 have this kind of enticement of young boys, and the kinds of
6 exchange of information and language that we see in this case.
7 Go ahead with your --

8 MR. LENNON: Yes, Your Honor. We will, and if the
9 Court, if the Court was indeed correct, we would then be
10 looking at guidelines of 2 months to 17 months and a maximum of
11 four years. And that's scoring, my scoring including multiple
12 acts of penetration. We would be looking at a two to four --
13 sorry, 2 to 17 on the low end, four on the statutory max. In
14 this case Mr. Gadola is facing almost 16 years at the minimum
15 here. We contend that that is far greater than necessary to
16 address the factors and the considerations the Court must
17 address in fashioning a sentence that is sufficient but not
18 greater than necessary.

19 Your Honor, I would also want to point out that we
20 have a young man who made some really terrible mistakes, and
21 he's acknowledged the hurt that he has caused to other people.
22 But in this case there are resources, there are resources that
23 have shown a great likelihood of success, and including what is
24 available to the Court here and was suggested or, sorry, was
25 mandated in the supervised release petition, no access to the

1 computer. Mr. Gadola has been without access to the computer
2 and on home detention for 20 months. So other than roughly
3 60 days when he reported and then went to a BOP facility in
4 Colorado, it's been now 20 months that he's been on home
5 detention, and there has been no offense. The Court's own
6 condition of supervised release, and the Court has up to life
7 on supervised release, mandates and requires that he not have
8 access to a computer. The fact that he has been on home
9 detention for 20 months, there's been no contact with victims,
10 there's been no contact with any children, should give the
11 Court comfort that a lengthy prison sentence is not most
12 appropriate in this case and that there are conditions outside
13 of a lengthy prison term that could ensure the safety of all
14 individuals.

15 And, Your Honor, may I have one moment?

16 THE COURT: Sure.

17 MR. LENNON: Thank you, Your Honor.

18 THE COURT: Thank you, Mr. Lennon. Mr. Gadola, at
19 this point you have the right to speak in your own behalf, to
20 tell me anything you think I should know about you, about what
21 you're charged with, what you've pled guilty to, and if you do
22 wish to speak, you may come to the podium with Mr. Lennon and
23 I'll hear what you have to say.

24 THE DEFENDANT: No, Your Honor, not at this moment.
25 What I said in my letter I'm really remorseful for what I've

1 done online. And that's all I got to say.

2 THE COURT: Thank you. Ms. Sanford.

3 MS. SANFORD: Thank you. Mr. Lennon spent sometime
4 talking about what would happen in this case if we were in
5 state court, but we aren't in state court. This is a federal
6 case and I do think it should be compared to other federal
7 cases.

8 I have heard this Court's concerns in the past about
9 the child pornography guidelines and how they often overstate
10 the nature of the case. But as is clear already from some of
11 Your Honor's comments, you recognize that this is not simply a
12 child pornography pictures case.

13 The defendant's sentencing memo began by discussing
14 the images at issue and how relatively tame they were. There's
15 no rape or sadism, there weren't very many images that
16 Mr. Gadola possessed, the children were pubescent, but what the
17 defense sentencing memo neglected to address is the relevant
18 conduct of what this Court is clearly aware.

19 Sameer Gadola did not merely possess a handful of
20 photographs of pubescent boys. Sameer Gadola reached out to
21 many children online grooming them with offers of athletic
22 training, asking for pictures of them in their boxers so he
23 knew what he was working with, or offering them help with
24 bullying, or offering them fun times at MSU events or going out
25 to eat. And Sameer Gadola was an adult man preying on

1 children. Some of whom knew enough to rebuff him telling him
2 they were only in 8th grade and didn't want to go to a
3 fraternity party, or they were too old to sit in his lap. Some
4 of the children didn't seem to understand the innuendos or
5 implications of what Mr. Gadola was asking, and other children
6 who as we see from the outcome of this case, did exactly what
7 he asked, engaged in sexual conversations with him, and sent
8 him nude pictures.

9 I very specifically included the conversations that
10 Gadola had with these children in the plea agreement and in the
11 sentencing memorandum because I think the language he uses
12 belies some of the claims about his mental development.

13 There's a claim from Dr. Kieliszewski that he does not
14 have the ability to think of and implement solutions to
15 problems, but I think that's countered by his immediate and
16 clever responses to any resistance from the victims in this
17 case. He told one boy who said he was not comfortable sending
18 pictures that he better get comfortable because girls were
19 going to want such things. He told the children he wouldn't
20 judge them, that it wasn't gay, that they would just compare,
21 that he was trying to help them.

22 He seemed very capable of thinking of solutions and
23 work arounds when these boys did not want to send him pictures.

24 We also see that he is capable of lying about himself
25 to suit his ends, telling one of the boys that he's in 11th

1 grade.

2 I would also note that everything in the defense
3 member regarding Mr. Gadola's mental health neglects to
4 mention, completely ignores the findings of the psychologist at
5 the Bureau of Prisons as is outlined in paragraphs 123 through
6 125 of the presentence report.

7 And that's the doctor who spent the most time and did
8 the most testing with Mr. Gadola.

9 And I think also when we talk about Mr. Gadola's
10 behavior and his relevant conduct, it's important to remember
11 we are talking about more than just online predation. He also
12 exploited any in-person contact he had with children as well,
13 engaged in oral sex and masturbation with his teenage relative,
14 he admitted fondling the youngest J. child while tickling and
15 wrestling with the boy; the older J. child describes the ways
16 that Gadola would rub and touch him as well.

17 And so I think that the fact that he now denies in his
18 written statement to the Court at page ID 839 that he ever
19 touched anyone is countered by all the facts that the Court has
20 in this case.

21 The idea that the Court does not need to be concerned
22 about protecting the public from Mr. Gadola is laughable when
23 the offender standing before you has exploited almost any child
24 with whom he had contact.

25 And such claim is particularly dubious when I refer to

1 paragraph 60 of the presentence report where Mr. Gadola
2 admitted to the probation officer that he is experimenting with
3 his sexuality, that he is not attracted to males his own age,
4 and that he cannot control his sexual urges but will be more
5 cautious.

6 Someone who admits he is incapable of controlling
7 himself is exactly whom the public needs to be protected from.

8 Given this plea agreement the Court has the ability to
9 impose up to 30 years imprisonment which is the combined
10 statutory maximums, and I believe given the nature and
11 magnitude of his conduct, to deter such future behavior, and
12 protect the public, a sentence within the advisory guidelines
13 is appropriate. Thank you.

14 THE COURT: Thank you, Ms. Sanford. Well, the
15 guidelines which are presented here are, as in most cases
16 anyway where there aren't mandatory minimums, they are advisory
17 but I do have to consult them and consider them before reaching
18 a sentencing decision which is reflective of my underlying duty
19 to impose a sentence which is sufficient but not greater than
20 necessary to comply with the purposes of Section 3553(a).

21 And the sentencing calculus starts, as many legal
22 constructs do, with an attempt to balance, balance here the
23 offense and the offender. The seriousness of this offense
24 cannot be understated, which defense counsel tries mightily to
25 do. And considering, as the plea agreement says I can, or may,

1 all of the behavior in this case, this case is very, very
2 serious. I think Ms. Sanford put her finger on it in her
3 allocution.

4 And then we balance that against the defendant.
5 Mr. Gadola is 23 years old. He's a young man. He's, he had a
6 tough start in life, no question about that, and his, as his
7 submissions have argued, his physical and emotional development
8 have been somewhat delayed, but he's also had the benefit of
9 significant assistance in many areas where he has needed help
10 from the time he was very, very young.

11 He has had the benefit of resources that very, very
12 few children have in their development. He's a high school
13 graduate but he wasn't successful at the next level of his
14 education. He seems to have had a relatively free rein with
15 regard to use of technology, and that is where he really got
16 himself into serious, serious trouble.

17 Now, going further to the purposes of sentencing under
18 the statute. I think it would be difficult to find any part of
19 it that didn't apply. There has to be some punishment for this
20 kind of behavior.

21 There has to be -- Mr. Gadola from the texting that
22 he did clearly indicated that he knew what he was doing was
23 wrong, and I think he probably knew it was illegal as well.
24 And so respect for the law is important here.

25 Deterrence is important. I simply do not believe that

1 the totality of this file suggests that Mr. Gadola is not a
2 danger. And so deterrence is important.

3 But the most important duty that I have in this case
4 is to protect the public from further crimes of the defendant,
5 which I think pretty clearly are potential.

6 We also need to provide with him medical, educational
7 and correctional treatment.

8 There is an issue with regard to unwarranted
9 disparities, and Ms. Sanford pointed out that I have, and I do,
10 have some serious questions about the guidelines in child
11 pornography cases. In fact, I put on the record about five
12 years ago a fairly lengthy argument or explanation for my
13 policy. These guidelines are harsh. But at that time in that
14 case, and in cases since then, I have pointed out that my
15 policy has a demarcation in it. Where there is, and there
16 often are in child pornography cases, there often are
17 defendants who exhibit no indication of acting out on these
18 fairly awful offenses that the guidelines don't take into
19 account, and the guidelines just are off the charts. But the
20 line is crossed in my view and in my policy where there is
21 indication that there has been acting out and that there is
22 danger of further acting out, which I think is very clear in
23 this case.

24 Are the guidelines here appropriate? Do they reflect
25 the statutory factors? I will have to acknowledge that this is

1 a difficult case, and balancing the factors, and further
2 recognizing that there's no presumption that the advisory
3 guidelines range is correct, the sentence in this case is a
4 result of my own independent review of the sentencing factors
5 and the entire sentencing file.

6 The plea agreement, paragraph 10A, "The defendant
7 agrees that in determining the sentence the Court may consider
8 the dismissed counts in determining the applicable sentencing
9 guidelines range, where the sentence should fall within the
10 applicable guidelines range, and the propriety of any departure
11 from the calculated range."

12 The defense argues that a significant variance is in
13 order here. It's clear that there is no grounds for departure
14 under the guidelines, and no motion has been made. But the
15 question of a variance is a very real one.

16 The defense attempts to paint a picture of a
17 relatively typical adolescent male behavior in sexting photos
18 of genitalia with the inference that such behavior is either
19 completely innocent or easily treatable.

20 But I believe that the known facts and history of this
21 defendant paint a darker, more sinister picture. That picture
22 is one of acting out on his sexual interest in young boys,
23 including his cousin in Florida, the three boys in the counts
24 of conviction, and others that have been determined by
25 investigatory agencies who were contacted by the defendant.

1 And I have to say a word about the text messages
2 themselves which are graphic, to say the very least. Page 11
3 of the sentencing brief argues that the photos were not of
4 explicitly sexual poses. How you could conclude that of a
5 photograph of an erect penis in a young boy's hand really is
6 beyond me.

7 In asking for a variance the argument again focuses on
8 some of the deficits that Mr. Gadola suffers, but as I
9 mentioned in my colloquy with Mr. Lennon, the ABLE assessment
10 simply didn't support that argument. I don't think that the
11 deficits as laid out either excuse or mitigate Mr. Gadola's
12 behavior. He was not forthcoming during the process of his
13 ABLE assessment, as I pointed out earlier. And the entire
14 report I think is contradicted by the facts established in the
15 history of this case.

16 So taking all of the circumstances of this case into
17 account, my conclusion is that Mr. Gadola is in fact a sexual
18 predator who not only groomed children for exploitation but on
19 occasion when he had ability to do so acted on those influences
20 and impulses. I think he's a danger to the community. I do
21 think that in many instances the guidelines in child
22 pornography cases are excessive, but as pointed out by
23 Ms. Sanford, this is not your typical child pornography case.

24 Having said that, I think 188 months is somewhat
25 excessive. The defendant wants us to conclude that he has not

1 acted out and never would, but the evidence is otherwise. So I
2 think that it is inescapable to me that a period of confinement
3 is necessary for treatment, for maturation, for coming to grips
4 with the real world.

5 So pursuant to the Sentencing Reform Act of 1984, it's
6 my sentence on Count 1 that the defendant serve 72 months, on
7 Count 2, that he serve 72 months to be concurrent with Count 1,
8 and on Count 3, that he serve 48 months to be consecutive with
9 Count 2.

10 The term of incarceration to be followed by five years
11 of supervised release per count to run concurrently and to be
12 subject to the standard conditions of reporting and remaining
13 law abiding.

14 Now we did provide to counsel and Mr. Gadola before
15 this hearing an order regarding additional sentencing
16 conditions which both Mr. Gadola and Mr. Lennon have signed and
17 I'm signing it now for entry.

18 The fine in this case is waived. Restitution is to be
19 determined, the amount of restitution is to be determined. I
20 will indicate that interest on restitution is waived. I order
21 the mandatory special assessment of \$300, \$100 per count. In
22 addition, I order the mandatory Justice for Victims of
23 Trafficking Act assessment of \$5,000 per count for a total of
24 \$15,000.

25 I will make the following recommendations to the

1 Bureau of Prisons: First, for placement in a facility that
2 will provide programming appropriate to the crimes not only
3 involving child pornography but also sexual deviancy, as well
4 as for mental health programming.

5 Mr. Lennon, does the defendant have any other requests
6 for recommendations to the Bureau of Prisons?

7 MR. LENNON: Your Honor, one moment.

8 THE COURT: Sure.

9 MR. LENNON: Your Honor, just to the extent the Court
10 can nuance the recommendation. Obviously we would like him as
11 close to home but we would certainly like the access to
12 programming to trump that request.

13 THE COURT: Right. I think that close to home is not
14 going to be compatible with some of those other programs which
15 are offered I think in only a couple different facilities
16 around the country.

17 MR. LENNON: But to the extent it's two of those.
18 Thank you, Your Honor.

19 THE COURT: Right. Ms. Sanford, am I correct that we
20 are dismissing the original indictment and the superseding
21 indictment?

22 MS. SANFORD: Yes, Your Honor.

23 THE COURT: Thank you. That motion is granted. Where
24 are we on forfeiture? I know there was a preliminary entered.

25 MS. SANFORD: I anticipate that a final order will

1 come through after sentencing, Your Honor.

2 THE COURT: Thank you. Are there any legal objections
3 to the sentence that I have just entered other than are already
4 on the record, Ms. Sanford?

5 MS. SANFORD: No, thank you, Your Honor.

6 MR. LENNON: No, Your Honor.

7 THE COURT: Thank you. Mr. Gadola, I have to talk to
8 you about your appellate rights, although, the plea agreement
9 in this case is pretty conclusive about your appellate rights.
10 But to the extent that you retain any appellate rights on my
11 sentencing, you have two things you need to know today: First,
12 there's going to be a judgment entered electronically today and
13 that will start a 14-day period running during which you have
14 to decide if you want to appeal. You obviously will want to
15 talk with Mr. Lennon, Mr. Cranmer, your parents, but you have
16 to let your lawyers know within 14 days if you desire to take
17 an appeal. If you do, your current counsel will be obligated
18 to represent you in that proceeding as well. Do you understand
19 those two things?

20 THE DEFENDANT: Yes, Your Honor, I do.

21 THE COURT: Okay. Does the government have any
22 objection to self-surrender in this case?

23 MS. SANFORD: Your Honor, I will just note for the
24 record pursuant to 18 U.S.C. 3143(b)(1) and (b)(2) it does say
25 the Court shall order when found guilty of an offense listed in

1 3142(f)(1)(A), which includes the offenses to which Mr. Gadola
2 pled guilty, they shall be ordered to be remanded even pending
3 an appeal. So I do want to note that for the record that
4 that's what the statute says but I will leave it to the Court's
5 discretion.

6 THE COURT: Thank you. Mr. Lennon.

7 MR. LENNON: Your Honor, we would respectfully ask the
8 conditions of bond be continued. I can assure the Court that
9 Mr. Gadola will report as ordered. For the last 20 months on
10 home detention, my understanding there have been no, there's
11 been no violations. And this would allow also for a little
12 better security status when he does arrive at the Bureau of
13 Prisons. We would respectfully ask the Court to continue the
14 conditions of bond.

15 THE COURT: I think that's fair enough, Mr. Lennon.
16 Mr. Gadola, I am going to continue your bond and let you
17 self-surrender. You will be notified by the U.S. Marshal at
18 some point of when and where to report, and as Mr. Lennon just
19 indicated, it's very important that you follow those
20 instructions carefully. Okay?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Okay. If there's nothing further,
23 Ms. Sanford.

24 MS. SANFORD: May I address just one thing regarding
25 bond, Your Honor?

1 THE COURT: Sure.

2 MS. SANFORD: Mr. Gadola is currently allowed to go
3 out for meals a few times a month. I would ask he be contained
4 in his home detention pending custody.

5 THE COURT: I think we will leave that in place.

6 MR. LENNON: Thank you, Your Honor.

7 THE COURT: Okay. Anything further, Mr. Lennon?

8 MR. LENNON: No, Your Honor.

9 THE COURT: We are adjourned.

10 THE CLERK: All rise, please. This court is now
11 adjourned.

12 (Proceedings concluded, 10:53 a.m.)

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REPORTER'S CERTIFICATE

I, Kathy J. Anderson, Official Court Reporter for the United States District Court for the Western District of Michigan, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing is a full, true and correct transcript of the proceedings had in the within entitled and numbered cause on the date hereinbefore set forth; and I do further certify that the foregoing transcript has been prepared by me or under my direction.

/s/ Kathy J. Anderson

Kathy J. Anderson, RPR, FCRR

U.S. District Court Reporter

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